UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
East St. Louis Division

SHERRI ANN GRAHAM, *Plaintiff*, v. EQUIFAX INFORMATION SERVICES, LLC, TRANSUNION CONSUMER SOLUTIONS, LLC., EXPERIAN INFORMATION SOLUTIONS, INC., and FIRST PROGRESS CARD, *Defendants*.	))))))))))	**Cause No. 3:17-cv-00177**

COMPLAINT WITH JURY TRIAL DEMAND

PRELIMINARY STATEMENT

1. This action is based on Defendants' false reporting on Plaintiff's credit reports and failures to follow reasonable procedures and failures to conduct reasonable reinvestigations with respect to such information.

2. The United States Congress has found that the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit Reporting Act, 15 U.S.C.A. § 1681 (West) *et seq.* ("FCRA"), to insure fair and accurate reporting, promote efficiency in the banking system, and protect consumer privacy. The FCRA seeks to ensure consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy because consumer reporting agencies have assumed such a vital role in assembling and evaluating consumer credit and other information on

consumers. The FCRA also imposes duties on the sources (called "furnishers") that provide credit information to credit reporting agencies.

PARTIES

3. Plaintiff Sheri Ann Graham (hereinafter "Graham"), is a natural person who resides in New Baden, Illinois.

4. Graham is an individual and is therefore a "consumer" as that term is defined by 15 U.S.C.A. § 1681a(c) (West).

5. Defendant Equifax Information Services, LLC (hereinafter "Equifax") is a credit bureau that conducts business in Illinois.

6. Defendant TransUnion, LLC. (hereinafter "TransUnion") is a credit bureau that conducts business in Illinois.

7. Defendant Experian Information Solutions, Inc. (hereinafter 'Experian") is a credit bureau that conducts business in Illinois.

8. Equifax, TransUnion, and Experian regularly assemble and/or evaluate consumer credit information for the purpose of furnishing consumer reports to third parties, and use interstate commerce to prepare and/or furnish the reports, and accordingly, are each considered a "consumer reporting agency" as that term is defined by 15 U.S.C.A. § 1681a(f).

9. Defendant First Progress Card (hereinafter "First Progress") regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies and is therefore a "furnisher" as that term is used in 15 U.S.C.A. § 1681s-2 (West).

JURISDICTION AND VENUE

10. Because this case arises under the Fair Credit Reporting Act, 15 U.S.C.A. § 1681 *et seq.*, jurisdiction of this Court arises under 28 U.S.C.A. § 1331 (West).

11. Venue is proper in this Court because a substantial part of the claim arose in Illinois, Graham resides in Illinois and all Defendants "reside" in Illinois, as that term is used in 28 U.S.C.A. § 1391 (West).

GENERAL ALLEGATIONS

12. On September 22, 2015, Graham filed a Chapter 13 Bankruptcy proceeding in the Southern District of Illinois, under Cause No. 15-31484.

13. First Progress was listed on Graham's Schedule F. A copy of the relevant portion of the aforementioned Schedule F is attached hereto as "Exhibit A."

14. On December 8, 2015, Graham's Chapter 13 Plan was confirmed. A copy of the Order Confirming Chapter 13 Plan is attached hereto as "Exhibit B."

15. A confirmed plan constitutes a new contract between the debtor and credits and a creditor's rights are defined by the confirmed plan. Consequently, a pre-petition claim provided for in a confirmed plan is no longer a pre-petition claim. The claim is a right to payment arising from the confirmed plan. Padilla v. Wells Fargo Home Mortg., Inc. (In re Padilla), 379 B.R. 643, 649, 2007 Bankr. Lexis 2655, *1 (Bankr. S.D. Tex. 2007).

16. Since the date Graham's Chapter 13 Plan was confirmed, the Defendants reported or caused to be reported inaccurate and misleading information both during and after the conclusion of Graham's bankruptcy proceedings.

17. Defendants inaccurate and misleading reporting did not comply with the Consumer Data Industry Association's Metro 2 reporting standards, which provides guidance for credit reporting and FCRA compliance.

18. While not dispositive, Courts rely on such guidance to determine furnisher liability. *See e.g.* In re Helmes, 336 B.R. 105, 107 (Bankr. E.D. Va. 2005)(finding that "industry standards

require that a debt discharged in bankruptcy be reported to a credit reporting agency with the notation 'Discharged in bankruptcy" and with zero balance due").

19. By information and belief, each of the furnishers herein have adopted and at all times relevant herein implemented the Metro 2 format.

20. The Metro 2 format guidelines for credit reporting are nearly identical for reports made during the "Month BK Filed," "Months Between Petition Filed and BK Resolution," and after "Plan Completed" for Chapter 13 Debtors and furnishers who choose to report post-bankruptcy credit information to CRAs. See e.g., 2015 CDIA Credit Reporting Resource Guide ("2015 Metro 2"), Frequently Asked Question 28(a), at pages 6-21 to 6-22.

21. Thus, many of the consumer reporting fields should be reported the same way both during and after a bankruptcy proceeding with the following exceptions:

A. Current Balance

1) For the "Month BK Filed" and "Months Between Petition Filed & BK Resolution," Metro 2 instructs the furnisher to report the outstanding balance amount. Id.

2) However, for the "Plan Confirmed" period, Metro 2 instructs the furnisher to report the "Chapter 13 Plan balance, which should decline as payments are made." Id. at 6-22.

3) For Current Balance reporting when "Plan Completed – All payments made according to plan – no further obligation, "Metro 2 instructs the furnisher to report a current balance of "Zero." Id.

B. Scheduled Monthly Payment Amount:

1) For the "Month BK Filed" and 'Months Between Petition Filed & BK Resolution," Metro 2 instructs the furnisher to report the "contractual monthly payment amount." Id. at 6-21.

2) However, for the "Plan Confirmed" period, Metro 2 instructs the furnisher to report the "Chapter 13 Payment Amount." Id. at 6-22.

3) And, for Scheduled Monthly Payment Amount reporting when "Plan Completed – All payments made according to plan – no further obligation, "Metro 2 instructs the furnisher to report a current balance of "Zero." Id.

22. Despite Metro 2 Format's instructions, each furnisher-Defendant named herein failed to conform to the Metro 2 Format when reporting on Plaintiff's accounts after she filed bankruptcy.

23. Further, this nonconforming and inaccurate reporting was also materially misleading in that it does not include payments made pursuant to Graham's Chapter 13 Plan. *See e.g.* Gorman v. Wolpoff v. Abramson, LLP, 584 F.3d 1147, 1163 (9th Cir. 2009) (A "material misleading" statement is concerned with omissions to credit entries that in context create misperceptions about what may otherwise be factually accurate data.)

INACCURATE INFORMATION REPORTED BY TRANSUNION

24. Sometime in November of 2016, Graham obtained a copy of her credit report as published by TransUnion.

25. That report contained erroneous information as provided by First Progress and published and reported by TransUnion. Specifically, the TransUnion credit report erroneously

indicated that the account representing Graham's debt to First Progress was closed on April 22, 2014 (with no balance) despite payments being made thereafter (April 23, 2015).

26. Because Graham's debt owed to First Progress, with a partial account number of 544303000054****, is to be completely paid pursuant to Graham's Chapter 13 Plan the information described above was inaccurate and misleading.

27. In a letter dated November 9, 2016, Graham disputed the inaccurate and misleading information to TransUnion and advised TransUnion of the specific facts that rendered the reporting inaccurate and misleading. A copy of the dispute letter is attached as "Exhibit C."

28. Upon information and belief, TransUnion timely notified First Progress of Graham's dispute in accordance with 15 U.S.C.A. § 1681i.

29. In a document dated November 28, 2016, TransUnion advised Graham that it had researched Graham's dispute and the tradeline referencing her debt to First Progress, with a partial account number of 544303000054****, was updated. However, TransUnion provided a copy of the tradeline as reported that reproduced at least some of the errors identified by Graham in her original dispute letter. Specifically, the tradeline still failed to indicate that Graham's debt previously owed to First Progress, under partial account number of 544303000054****, has not been closed, does not have a zero balance, or that Graham has made payments on the obligation subsequent to the alleged closing date. A copy of the relevant portion of the reinvestigation report is attached as "Exhibit D."

30. Further, there is no indication in the tradeline of the "verified" report that Graham disputed the First Progress information published by TransUnion.

31. TransUnion was required to communicate the specifics of Graham's dispute to First Progress. Likewise, First Progress had a duty to reasonably investigate the dispute and accurately report their findings to TransUnion.

32. TransUnion had an affirmative duty to reasonably reinvestigate the dispute submitted by Graham and to accurately report the tradeline information notwithstanding the information it received from First Progress.

INACCURATE INFORMATION REPORTED BY EXPERIAN

33. Sometime in November of 2016, Graham obtained a copy of her credit report as published by Experian.

34. That report contained erroneous information as provided by Great Lakes Higher Education, Springleaf Financial, Capital One, and Skopos Financial, reported by Experian. Specifically, the Experian credit report indicated that the debt owed to Great Lakes Higher was past due $658.00 despite the account being deferred, that the Springleaf account had included in bankruptcy on October 31, 2015 (despite Graham filing for bankruptcy on September 22, 2015), and fails to include payments made by Graham to Skopos Financial pursuant to her Chapter 13 Plan.

35. Because Graham filed for bankruptcy on September 22, 2015 and has made numerous payments to Skopos Financial pursuant to her Chapter 13 Plan, the information described above was inaccurate and misleading.

36. In a letter dated November 9, 2016, Graham disputed the inaccurate and misleading information to Experian and advised Experian of the specific facts that rendered the reporting inaccurate and misleading. A copy of the dispute letter is attached as "Exhibit E."

37. Upon information and belief, Experian did not timely notify any of the aforementioned furnishers of Graham's dispute in accordance with 15 U.S.C.A. § 1681i (West).

38. Instead of responding with a reinvestigation report or confirming the corrections Graham' requested were made, Experian did nothing.

39. Experian was required to communicate the specifics of Graham's dispute to each of the aforementioned furnishers. Likewise, each of the furnishers had a duty to investigate the dispute and accurately report their findings to Experian.

40. Experian had an affirmative duty to reasonably reinvestigate the dispute submitted by Graham and to accurately report the tradeline information notwithstanding the information it received from each of the aforementioned furnishers.

INACCURATE INFORMATION REPORTED BY EQUIFAX

41. Sometime in November of 2016, Graham obtained a copy of her credit report as published by Equifax.

42. That report contained erroneous information as provided by Great Lakes Higher Education, Springleaf Financial, Capital One, and Skopos Financial, reported by Equifax. Specifically, the Experian credit report indicated that the debt owed to Great Lakes Higher was past due $658.00 despite the account being deferred, that the Springleaf account had included in bankruptcy on October 31, 2015 (despite Graham filing for bankruptcy on September 22, 2015), and fails to include payments made by Graham to Skopos Financial pursuant to her Chapter 13 Plan.

43. Because Graham filed for bankruptcy on September 22, 2015 and has made numerous payments to Skopos Financial pursuant to her Chapter 13 Plan, the information described above was inaccurate and misleading.

44. In a letter dated November 9, 2016, Graham disputed the inaccurate and misleading information to Equifax and advised Equifax of the specific facts that rendered the reporting inaccurate and misleading. A copy of the dispute letter is attached as "Exhibit F."

45. Upon information and belief, Equifax did not timely notify any of the aforementioned furnishers of Graham's dispute in accordance with 15 U.S.C.A. § 1681i (West).

46. Instead of responding with a reinvestigation report or confirming the corrections Graham' requested were made, Equifax did nothing.

47. Equifax was required to communicate the specifics of Graham's dispute to each of the aforementioned furnishers. Likewise, each of the furnishers had a duty to investigate the dispute and accurately report their findings to Equifax.

48. Experian had an affirmative duty to reasonably reinvestigate the dispute submitted by Graham and to accurately report the tradeline information notwithstanding the information it received from each of the aforementioned furnishers.

INACCURATE INFORMATION AS IT PERTAINS TO ALL DEFENDANTS

49. Equifax, Experian, TransUnion, and First Progress are each responsible for following reasonable procedures to assure maximum possible accuracy whenever they prepare consumer reports from information in their shared databases.

50. Equifax, Experian, TransUnion, and First Progress independently and jointly, breached their duties as described above.

51. Due to Equifax's and TransUnion's respective failures to conduct reasonable reinvestigations of Graham's dispute, the lack of any indication on Graham's credit reports that Graham's debt to First Progress, under partial account number of 544303000054****, was being

paid upon well after her filing date via her Chapter 13 Plan, was not appropriately modified or deleted.

52. By inaccurately reporting debt information after receiving notice of its errors, First Progress failed to take appropriate measures as set forth in 15 U.S.C.A. § 1681s-(2)(b)(1)(D) and 1681s-(2)(b)(1)(E).

53. As a result of Defendants' willful actions and omissions, Graham is eligible for actual damages, statutory damages, punitive damages and reasonable attorney's fees.

TRIAL BY JURY

54. Graham is entitled to and hereby requests a trial by jury.

CAUSES OF ACTION

COUNT I: VIOLATIONS OF THE FAIR CREDIT REPORTING ACT [15 U.S.C.A. § 1681e(b) and 1681i (West)]

55. Graham incorporates by reference all preceding paragraphs as though fully stated herein.

56. Equifax willfully and/or negligently violated 15 U.S.C.A. § 1681e(b) by failing to follow reasonable procedures to assure the maximum possible accuracy of Graham's consumer reports.

57. Equifax willfully and/or negligently violated 15 U.S.C.A. § 1681i in multiple ways including without limitation by failing to conduct a reasonable reinvestigation of Graham's dispute and by failing to appropriately delete or modify inaccurate information in Graham's file.

58. As a result of Equifax's violation of 15 U.S.C.A. § 1681e(b), Graham has suffered actual damages including but not limited to certain out of pocket expenses incurred in addressing the error, emotional distress, and the payment of increased costs of credit and insurance. In turn, Graham is entitled to recover actual damages pursuant to 15 U.S.C.A. § 1681n and 1681o (West).

59. Equifax's actions and omissions were willful, rendering them liable for punitive damages and/or statutory damages pursuant to 15 U.S.C.A. § 1681n.

60. Graham is entitled to recover costs and attorney's fees from Equifax pursuant to 15 U.S.C.A. § 1681n and 1681o.

COUNT II: VIOLATIONS OF THE FAIR CREDIT REPORTING ACT
[15 U.S.C.A. § 1681e(b) and 1681i (West)**]**

61. Graham incorporates by reference all proceeding paragraphs as if set forth herein.

62. TransUnion willfully and/or negligently violated 15 U.S.C.A. § 1681e(b) by failing to follow reasonable procedures to assure the maximum possible accuracy of Graham's consumer reports.

63. TransUnion willfully and/or negligently violated 15 U.S.C.A. § 1681i in multiple ways including without limitation by failing to conduct a reasonable reinvestigation of Graham's dispute and by failing to appropriately delete or modify inaccurate information in Graham's file.

64. As a result of TransUnion's violations of 15 U.S.C.A. § 1681e(b), Graham has suffered actual damages including but not limited to certain out of pocket expenses incurred in addressing the error, emotional distress, and the payment of increased costs of credit and insurance. In turn, Graham is entitled to recover actual damages pursuant to 15 U.S.C.A. § 1681n and 1681o (West).

65. TransUnion's actions and omissions were willful, rendering them liable for punitive damages and/or statutory damages pursuant to 15 U.S.C.A. § 1681n.

66. Graham is entitled to recover costs and attorney's fees from TransUnion pursuant to 15 U.S.C.A. § 1681n and 1681o.

COUNT III: VIOLATIONS OF THE FAIR CREDIT REPORTING ACT
[15 U.S.C.A. § 1681e(b) and 1681i (West)**]**

67. Graham incorporates by reference all proceeding paragraphs as if set forth herein.

68. Experian willfully and/or negligently violated 15 U.S.C.A. § 1681e(b) by failing to follow reasonable procedures to assure the maximum possible accuracy of Graham's consumer reports.

69. Experian willfully and/or negligently violated 15 U.S.C.A. § 1681i in multiple ways including without limitation by failing to conduct a reasonable reinvestigation of Graham's dispute and by failing to appropriately delete or modify inaccurate information in Graham's file.

70. As a result of Experian's violations of 15 U.S.C.A. § 1681e(b), Graham has suffered actual damages including but not limited to certain out of pocket expenses incurred in addressing the error, emotional distress, and the payment of increased costs of credit and insurance. In turn, Graham is entitled to recover actual damages pursuant to 15 U.S.C.A. § 1681n and 1681o (West).

71. Experian's actions and omissions were willful, rendering them liable for punitive damages and/or statutory damages pursuant to 15 U.S.C.A. § 1681n.

72. Graham is entitled to recover costs and attorney's fees from Experian pursuant to 15 U.S.C.A. § 1681n and 1681o.

COUNT IV: VIOLATIONS OF THE FAIR CREDIT REPORTING ACT
[15 U.S.C.A. § 1681s-2(b)**]**

73. Graham incorporates by reference all preceding paragraphs as though fully stated herein.

74. First Progress willfully and/or negligently violated 15 U.S.C.A. § 1681s-2(b) by failing to conduct reasonable investigations upon receiving notice of Graham's dispute from one or more consumer reporting agencies, and/or by failing to review all relevant information provided by

the consumer reporting agencies, and/or by failing to appropriately report the results of its investigations, and/or by failing to appropriately modify, delete, and/or block the inaccurate information.

75. As a result of First Progress' violations of 15 U.S.C.A. § 1681s-2(b), Graham has suffered actual damages including but not limited to certain out of pocket expenses incurred in addressing the error, emotional distress including sever anxiety about her inability to obtain credit upon favorable terms and her payment of increased costs of credit and insurance. In turn, Graham is entitled to recover actual damages under 15 U.S.C.A. § 1681n and 1681o.

76. First Progress' actions and omissions were willful, rendering it liable for punitive damages and/or statutory damages pursuant to 15 U.S.C.A. § 1681n.

77. Graham is entitled to recover costs and attorney's fees from First Progress pursuant to 15 U.S.C.A. § 1681n and 1681o.

WHEREFORE, Graham respectfully requests the following relief:

a. Actual damages;
b. Statutory damages;
c. Punitive damages pursuant to 15 U.S.C.A. § 1681n;
d. Reasonable attorney's fees and costs pursuant to 15 U.S.C.A. § 1681n and/or 1681o;
e. That an Order be issued for the Defendants to modify, delete or block the inaccurate information being reported; and
f. Such other and further relief as may be just and proper.

Respectfully submitted,

/s/ Travis W. Cohron

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